Appendix B

Proposed Alternative for
Production Meets Type and Challenges to a Certificate of Conformance
NTEP Business Plan Work Group
October 1999

(Note: The following proposals are intended to replace previous proposals presented by the NTEP Business Plan Work Group and included in the NTEP Committee's 1999 NCWM Final Report as Appendix C and Appendix D.)

Draft Proposals

Proposed additions to Publication 14's administrative procedures:

Part A. Administration:

1. Amend the NTEP application to include a conditional statement that in the event the device fails to meet its performance requirements, the manufacturer agrees to submit additional production models for future testing. This agreement will stipulate that the manufacturer shall pay for the cost of such production device testing. The number of devices required to be submitted is something that will need to be determined. (Note: given comments on this item, it was suggested that this be held for redrafting after the production meets type discussion matures further.)

2. All applicants agree to provide proof that production devices will meet type. Demonstrating that production devices will meet type may be satisfied by: (Note: to be further developed)

A device manufacturer can adopt an NTEP approved production meets type program, or can adopt its own program provided that it can meet NTEP criteria. It is anticipated that the criteria under either option would essentially be the same. It may be possible to allow a company to elect to substitute production lot testing under some defined schedule in lieu of a production meets type quality program. This last option would be structured such that it would be uneconomical for large production levels. The NTEP Committee would be responsible for approving production meets type programs for device manufacturers.

NTEP Laboratory Process, Initial Verification Process and Subsequent Verification Process

Note: This proposal contains three parts: one to address the NTEP laboratory process, one to address initial verification and one to address the subsequent verification process.

Part I. Type Evaluation Process

Proposal:

That if a device submitted to an NTEP laboratory fails in specific metrologically significant areas (to be determined, possibly by device type), the device is returned to the manufacturer. The manufacturer may correct the device and reapply for type evaluation, including payment of application fees, and submission of a test data package to assure NTEP compliance. The device may be placed at the end of the laboratory testing queue.

Part II. Initial Verification Process

Proposal:

That an initial verification system be developed within NTEP that would establish specific criteria (possibly by device type) for metrologically significant areas to be evaluated and reported during the initial installation by weights and measures officials (and possibly service agencies). Only devices found to be deficient in the specific criteria areas would be entered into the system.

(Comment: consideration should be given to type of devices and applications where the installation can have a major affect on the performance of the device-e.g. Vehicle, hopper, railroad and belt- conveyor scales; loading rack and VTM meters. The initial verification should be limited to the weighing/measuring element level.)

That a reporting form containing appropriate information (to be developed) be made a part of the examination procedure outlines (EPO's), and become a cooperative effort of weights and measures jurisdictions. (Possible to establish a pilot program to evaluate effectiveness. Test criteria, testing standards, inspector training, etc. would all need to be considered in developing this proposal.)

That a database be developed by NTEP to track the critical criteria and that performance standards be established to notify NTEP when a number (to be determined) of devices have failed the initial verification.

That criteria for device reevaluation be established to require a manufacturer (at the manufacturer's expense) to resubmit production devices to NTEP.

That criteria be established for the reevaluation if non-conformance to type is found (corrective action or withdrawal of the Certificate of Conformance).

Part III. Subsequent Verification Process

Proposal:

To establish a very limited set of criteria (to be determined) for reporting by weights and measures jurisdictions (and service agencies?) in areas of performance which would continue to be related to production meets type.

As with production meets type, specific evaluation criteria would need to be established to determine if a reevaluation is necessary. (To be further developed.)

Part B. Challenges to a Certificate

A challenge to an existing certificate may be brought by any weights and measures jurisdiction or by any interested party. The challenge shall list the name of the manufacturer, the certificate number, the specific model number of the device in question, the alleged deficiency to Handbook 44, and supporting documentation of the allegation. The challenge shall be submitted in writing along with the required information to the Chairman of the NTEP Committee. (Possibly through NIST). The NTEP Committee Chair will review and if warranted, forward the information to the NIST NTEP Administrator. The NTEP administrator will assign an NTEP laboratory (or other competent representative) to conduct an investigation of the device in question.

Procedures to Address a Challenge an NTEP Certificate of Conformance (CC)

(Note: These procedures were developed to address one specific device type. Modifications to the procedure will be made on a case-by-case basis to best address the specific type of device being challenged.)

The NTEP Committee will review the information and data provided by entity lodging the challenge. If the NTEP Committee finds there is sufficient information to continue, the following steps will be taken. If insufficient information is provided, the NTEP Committee will contact the challenger and identify the information required.

The NTEP Committee will consult with NIST statistical staff to determine number of devices that would need to be tested and how the results should be analyzed relative to selecting additional devices for test.

Locate sources of supply for the model of device being challenged. Attempt to determine the approximate number of the device in supply. Ask the supplier(s) if the manufacturer supplies special instructions, mountings, or other peripheral equipment for installing and using the device.

Send a letter to the entity lodging the challenge stating that NTEP will proceed with the complaint. Indicate that they may be responsible for the costs of the evaluation if the results of the evaluation show the devices meet the requirements. Note that, unless NTEP hears from the challenger in 10 days, NTEP will proceed with the challenge. If the challenger objects to this condition, then NTEP will consider the challenge closed. The letter will also outline the procedures that NTEP will follow in addressing the challenge.

A letter will be sent to the company whose Certificate of Conformance is being challenged to notify them of the challenge and indicate the steps that NTEP will follow to address the challenge. The letter will indicate that, should the devices fail to meet requirements, the company holding the CC will be assessed the fees for testing and the CC may be withdrawn. NTEP recognizes that factors such as peripheral equipment and installation can be significant in device performance. If the company wishes to supply the required information or equipment or to provide additional instructions, they have the option of providing these. If the manufacturer wishes to participate in the testing they are welcome to do so. If the manufacturer objects to the proposed procedure, they must contact NTEP within 2 weeks. Note that the CC holder can request to have more cells tested than prescribed by NTEP during the challenge process; however, the CC holder is responsible for the costs of the additional testing. Objections to the proposed procedures will be addressed on a case-by-case basis.

The testing process will begin with NTEP obtaining the devices to be tested. Two production devices of the model and capacity being challenged will be selected. An attempt will be made to get the devices from different distributors.

One device will be submitted to NTEP for testing.

> If the resulting test data does not compare with test results submitted by the entity lodging the challenge (i.e., the device passes or its performance is significantly different) the challenger will be notified by phone and in writing of the results. The challenger will be asked whether or not they want to proceed since they may be responsible for additional costs. If the challenger wishes to proceed, then NTEP will proceed to the next step.
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> If the first device fails, the second device is tested as described below.

The next device will be tested.

> If the device passes, the complaint is resolved and both parties are notified.
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> If the device fails, then the holder of the NTEP CC is to be contacted and asked if they wish to proceed to test more devices in accordance with the statistical sampling plan. If the CC holder elects to take corrective action at that point, they will be asked to voluntarily suspend the Certificate which would also require them to recall all devices in their and their distributors' existing stock. If NTEP continues with testing of the devices and find that the devices continue to fail, NTEP can proceed to withdraw the Certificate and notify the States.

Cost of Investigation:

Initially any costs incurred in the conduct of an investigation will be paid from the NTEP fund of the NCWM. If the investigation finds that production did not meet type, the entire cost of the investigation will be assessed to the manufacturer of the device. To discourage frivolous challenges, if a challenge to a certificate is initiated by a competing manufacturer and the investigation finds that production does in fact meet type, the entire cost of the investigation may be assessed to the entity that initiated the challenge. A deposit may be required at the time of submission of the challenge. (Amount to be determined).

NTEP Initiation of Investigation:

If NTEP has reason to believe that production of a model does not meet type, the same procedures will be followed. The reason for this type of investigation could come from complaints by several jurisdictions or information from a National Data Base which provides sufficient information to indicate that production does not meet type. In this type of investigation, if it is found that production meets type, NTEP will absorb the cost of the investigation. If it is found that production does not meet type, the cost will be assessed to the manufacturer of the device.

Devices Requiring Field Evaluation:

If a challenge is brought against a device or system that requires field evaluation, initially only the device which was brought into question will be evaluated. If the device or system passes the evaluation, it will be assumed that production meets type. If the device fails, a second device of the same type will be evaluated. If the second device fails, it will be determined that production does not meet type and the procedures outlined above will be followed.

Due Process Procedures: See Publication 14.